

1
2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA
4

5 CHARLES LEE RANDOLPH,

6 Petitioner,

7 v.

8 WILLIAM GITTERE, *et al.*,

9 Respondents.
10

Case No. 3:08-cv-00650-LRH-CLB

**ORDER GRANTING PETITIONER'S
MOTION TO WITHDRAW PREVIOUS
MOTIONS (ECF NO. 76) AND DENYING
PREVIOUS MOTIONS (ECF NOS. 71,
72) AS MOOT**

11 This is a habeas corpus action brought by Charles Lee Randolph, a Nevada
12 prisoner sentenced to death. On July 29, 2019, the Court ordered Randolph's prior
13 counsel, James Colin, discharged from his representation of Randolph. See Order
14 entered July 29, 2019 (ECF No. 64). On October 15, 2019, the Court appointed new
15 counsel -- the Federal Public Defender for the District of Idaho (FPD) -- to represent
16 Randolph, and the Court set a schedule for Randolph, with his new counsel, to file a
17 second amended habeas petition. See Order entered October 15, 2019 (ECF No. 67).
18 The second amended petition is due on April 13, 2020. See Order entered October 15,
19 2019 (ECF No. 67).

20 On August 9, 2019, Randolph filed, *pro se*, a motion requesting leave of court to
21 represent himself and requesting that his action proceed without delay on his first
22 amended petition (ECF No. 65). The Court denied that motion in the October 15 order,
23 without prejudice to Randolph filing a new motion requesting leave to proceed *pro se*
24 after he had the opportunity to consult with his new counsel. See Order entered October
25 15, 2019 (ECF No. 67), p. 3.

26 On November 4, 2019, Randolph filed two more *pro se* motions: a "Motion for
27 Leave to Proceed *Pro Se*" (ECF No. 71) and a "Verified Motion for Order to Terminate
28 FPD [and] Invocation of Right to Self-Representation [and] Demand for an Immediate

1 End to Unnecessary Unwanted Suspension of Proceedings" (ECF No. 72) ("November
2 4 motions"). In those motions, Randolph renewed his request for leave of court to
3 represent himself in this action and his request that this action proceed without delay on
4 his first amended petition. On November 26, 2019, the Court held a hearing, to hear
5 from Randolph, the FPD, and Respondents, regarding Randolph's motions. At the
6 hearing, Randolph reiterated his requests that the FPD be discharged, that he be
7 allowed to proceed *pro se*, and that the action proceed on the first amended petition.

8 On December 3, 2019, however, the FPD filed, on Randolph's behalf, a motion
9 (ECF No. 76) requesting leave to withdraw his previous motions. In that motion, counsel
10 notifies the Court that Randolph has had a change of heart and wishes for the FPD to
11 continue to represent him and file a second amended habeas petition on his behalf. The
12 FPD informs the Court that Respondents' counsel has informed them that Respondents
13 take no position on the motion.

14 In the interests of justice, and good cause appearing,

15 **IT IS THEREFORE ORDERED** that Petitioner's Motion to Withdraw Motions
16 (ECF No. 76) is **GRANTED**.

17 **IT IS FURTHER ORDERED** that Petitioner's Motion for Leave to Proceed *Pro*
18 *Se*" (ECF No. 71) and Verified Motion for Order to Terminate FPD [and] Invocation of
19 Right to Self-Representation [and] Demand for an Immediate End to Unnecessary
20 Unwanted Suspension of Proceedings (ECF No. 72) are **DENIED** as moot.

21
22 DATED this 9th day of December, 2019.

23
24 
25 LARRY R. HICKS
26 UNITED STATES DISTRICT JUDGE
27
28